

FLOYD ZAIGER

IBLA 80-160

Decided May 7, 1980

Appeal from decision of the Oregon State Office, Bureau of Land Management, holding the Anniversary Mine mining claim abandoned and void. 3833 (OR).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Under 43 U.S.C. § 1744(b) (1976) and 43 CFR 3833.1-2 the owner of an unpatented mining claim located on or before Oct. 21, 1976, must have filed a copy of the official record of the notice or certificate of location of the claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979, or the claim will be deemed to be conclusively abandoned and void under 43 U.S.C. § 1744(c) (1976) and 43 CFR 3833.4.

2. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Pursuant to 43 CFR 3833.2-1(a) the owner of an unpatented mining claim located on or before Oct. 21, 1976, must have filed in the proper BLM office on or before Oct. 22, 1979, or on or before Dec. 30 of each calendar year following the calendar year of

recording with BLM, which ever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

3. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation

Documents received in the Bureau of Land Management's Burns, Oregon, District Office on Oct. 22, 1979, are not timely filed in the proper BLM office, where pursuant to 43 CFR 1821.2-1(d), the proper office with jurisdiction over the area in which the claim is located is the Oregon State Office in Portland, and the documents are not received in the State Office until after Oct. 22, 1979.

4. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Floyd Zaiger, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Floyd Zaiger appeals from a decision, dated November 2, 1979, of the Oregon State Office, Bureau of Land Management (BLM), declaring the Anniversary Mine mining claim abandoned and void for failure to file timely a notice of location or an affidavit of assessment work (proof of labor) as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976).

Appellant mailed a deed of the Anniversary Mine and a service fee of \$5 to the Burns District Office of BLM. The documents were received October 22, 1979. The District Office forwarded the material to the State Office where it was received and date stamped on October 25, 1979. The State Office returned the deed and the filing fee to appellant with the decision declaring the claim abandoned and void. Appellant resubmitted the deed along with a proof of labor form for labor performed on the claim in 1978 and a notice of appeal from the decision, which was received by BLM on November 30, 1979.

Appellant states on appeal that he was not notified by BLM that a filing was required. Appellant alleges that he had phone conversations and exchanged correspondence with BLM officials who never informed him of the recording requirements. Appellant requests that his late filing be allowed because the documents were received in the District Office on October 22, 1979, and because BLM neglected to inform appellant of the necessity of filing the required documents.

[1, 2] The pertinent regulations, 43 CFR 3833.1-2(a) and 43 CFR 3833.2-1(a), implementing section 314 of FLPMA, provide as follows:

[§] 3833.1-2 Manner of recordation -- Federal lands.

(a) The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, excluding lands within units of the National Park System established before September 28, 1976, but including lands within a national monument administered by the United States Fish and Wildlife Service or the United States Forest Service, shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location of the claim or site, a certificate of location containing the information in paragraph (c) of this section shall be filed.

* * * * *

§ 3833.2-1 When filing is required.

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

Appellant did not file a copy of the official record of the notice or certificate of location as required by 43 CFR 3833.1-2. Nor did appellant file evidence of annual assessment work as required by 43 CFR 3833.2-1. A copy of the quitclaim deed and a map of the claim sent to the Burns District Office and subsequently forwarded to the State Office do not meet the requirements of the above-referenced regulations. Further, the \$5 filing fee was not timely submitted to the proper BLM office by the due date.

[3] The "proper BLM office" is defined in the regulations at 43 CFR 3833.0-5(g) as the BLM office which has jurisdiction over the area in which the claim is located, as specified in 43 CFR 1821.2-1(d). The latter section states in turn that the office having jurisdiction over lands located in Oregon is BLM's Oregon State Office in Portland. Thus, under 43 CFR 3833.1-2(a), appellant was required to "file" this information in BLM's Oregon State Office, i.e., to cause it to be received and date stamped there, on or before October 22, 1979. The documents were not received at the State Office until October 25, 1979, and therefore were not timely filed even assuming, arguendo, they met the requirements otherwise, which they did not. C. F. Linn, 45 IBLA 156 (1980).

[4] Appellant states that BLM "had every opportunity to inform us of the new laws governing mining claims, but failed to do so." All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Willene Minnier, 45 IBLA 1 (1980). We have no detailed information concerning alleged telephone conversations between BLM personnel and appellant. We note, however, that it was the general policy of this Department to disseminate information concerning the mining claim recordation requirements as widely as possible. In addition to the constructive notice afforded by the statute and published regulations and notices in the Federal Register, an extensive publicity campaign was carried out by BLM in the public land states with press releases and notices carried by many of the general news media and in mining publications to inform claimants of the requirements. Appellant's unawareness of the requirements cannot serve to avoid the effect of the statute and regulations.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Douglas E. Henriques
Administrative Judge

